# MANAGEMENT AGREEMENT

**THIS MANAGEMENT AGREEMENT** (this "Agreement") is made as of the 12th day of May, 2016, between **FREDERICK COUNTY, MARYLAND** ("County"), and **AURORA HEALTH MANAGEMENT, LLC**, a Maryland limited liability company ("Manager"), and joined solely with regard to Sections 3(c), 3(f), 7, and 12 below, by **CITIZENS CARE AND REHABILITATION CENTER OF FREDERICK, LLC**, a Maryland limited liability company ("Citizens of Frederick"), and **ODYSSEY ASSISTED LIVING AT MONTEVUE, LLC**, a Maryland limited liability company ("Odyssey")(Citizens of Frederick and Odyssey are collectively "Manager Affiliates").

## INTRODUCTION

A. County is the owner and operator of a licensed comprehensive care facility located at 1920 Rosemont Avenue, Frederick, Maryland 21702, containing 170 licensed nursing home beds and known as "Citizens Care & Rehabilitation Center", and a licensed assisted living facility located at 1910 Rosemont Avenue, Frederick, Maryland 21702, containing 75 units and known as "Montevue Assisted Living Facility" (collectively the "Facility").

B. Manager is an experienced manager of nursing and assisted living facilities.

C. County desires to engage Manager to manage the Facility, for and on account of County, and desires that Manager extend to County the benefits of expert management and other services and Manager is willing to accept such engagement on the terms and conditions set forth in this Agreement.

D. An affiliate of Manager leased and operated the Facility pursuant to a Facility Lease dated May 1, 2014, which shall terminate pursuant to a Settlement Agreement dated May 12, 2016 (the "Settlement Agreement"), a Purchase and Sale Agreement dated May 12, 2016 (the "PSA"), and an Amended Indemnity Escrow Agreement of even date herewith (the "Escrow Agreement").

E. "Effective Date" is the "Closing Date" as defined in the Purchase and Sale Agreement executed by the Parties on May 12, 2016.

**THEREFORE**, the parties agree as follows:

1. Appointment of Manager. County hereby appoints Manager and Manager hereby accepts the appointment on the terms and conditions set forth in this Agreement to manage the Facility in the name of County.

2. Term. The term of performance under this Agreement shall commence on the Closing Date (as defined in the PSA) and continue thereafter for eighteen (18) months after such Closing Date, unless terminated otherwise pursuant to Sections 4 or 10 of this Agreement (the "Initial Term"). Immediately following completion of the Initial Term, this Agreement shall renew for a twelve (12) month term (the "First Renewal Term"), unless the County provides

Aurora at least ninety (90) days written notice prior to expiration of the Initial Term. Immediately following completion of the First Renewal Term, this Agreement shall renew for another twelve (12) month term (the "Second Renewal Term"), unless either Party provides the other Party at least one hundred twenty (120) days written notice prior to expiration of the First Renewal Term. (The Initial Term together with the First Renewal Term and Second Renewal Term, as applicable, shall be referred to herein as the "Term.")

3. Manager's Duties. During the Term of this Agreement, Manager shall provide County with all necessary and appropriate services for the management of the Facility so that the Facility will be operated and maintained in a manner consistent with industry standards. Wherever in this Agreement Manager is required to obtain the consent or approval of County, such consent or approval may be given by either County Executive Jan H. Gardner or the Chief Administrative Officer as the authorized representative of County. In furtherance of, and without limiting the foregoing general responsibility, Manager shall provide the Facility with the services set forth in Exhibit A, attached hereto, and those services set forth below, all for the compensation set forth in Section 6 herein below; any additional services provided by Manager shall be provided only with County's prior written permission and at County's agreement as to cost.

a. Contracts, Leases and Agreements. Manager shall enter into all contracts, leases and agreements required in the ordinary course of business for the operation, maintenance and service of the Facility in the name of County. When beneficial and appropriate (e.g. capital expenditures), County will make its Procurement Division resources available to Manager.

b. HIPAA; Business Associate. If Manager, in connection with its provision of services to County under this Agreement, constitutes a Business Associate (as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing privacy regulations at 45 C.F.R. Parts 160-164 (the "HIPAA Privacy Rule")) and will use Protected Health Information (as defined in HIPAA and the HIPAA Privacy Rule) that has been generated by or entrusted to County, Manager shall execute that Business Associate Addendum set forth as Exhibit B, attached hereto, whose terms shall apply with respect to Manager's provision of the services to County under this Agreement. Manager shall appoint a privacy officer and security officer, implement HIPAA privacy and security policies and procedures, hire a contractor to train the workforce on such policies and procedures, to conduct a security risk analysis, and to implement a security management plan. The cost of such contractor shall be borne solely by the County.

c. Personnel and Staff Development. Manager or Manager Affiliates will employ and provide to the Facility a full time, on-site, qualified Administrator, and Business Office Manager. Manager shall also recruit, hire, employ, train, supervise and direct the work of all other personnel necessary for the operation of the Facility who are assigned to work on-site at the Facility (who, together with the Administrator and Business Office Manager, shall be referred to herein as the "Facility Personnel"). All Facility Personnel shall be employees of Manager Affiliates and on Manager Affiliates' payroll, and County shall be responsible for all costs and expenses in connection therewith. The County may also assign a County financial officer to work at the Facility, and the County shall bear the cost thereof. Manager will schedule

and hold regular meetings and/or conduct training programs for department directors and other supervisory personnel and will assist the department directors and other supervisory personnel in (i) the planning, conducting and scheduling of in-service training classes, on-the-job training and orientation programs, and (ii) ensuring that the appropriate Facility Personnel attend and participate in such training programs. Manager and Manager Affiliates will not engage in any conduct or practice which violates any applicable law, order or regulation prohibiting discrimination against any person by reason of his or her race, color, religion, national origin, physical handicap, sex, sexual orientation or age in the performance of this Agreement. All decisions relating to Facility Personnel, including hiring, terminations and compensation, shall be entirely in the control and discretion of the Manager. Compensation of Facility Personnel shall be reasonably consistent with Operating Budget.

d. Supplies. Manager shall purchase, at the expense of County and reasonably consistent with the Operating Budget, such inventories, provisions, food, supplies and other expendable items as are necessary to operate and maintain the Facility in a proper manner.

e. Health Care Reporting. Manager shall comply with applicable law in making reports to the Department of Health and Mental Hygiene of the State of Maryland ("DH"). If Manager reasonably determines a matter should be reported to DH, Manager will notify County as soon as practicable; provided, however, in the event of an incident that Manager reasonably believes must be reported to DH immediately, Manager shall report such matter to DH and concurrently provide a report of the same to County. At County's request and expense, Manager shall seek the advice of counsel to the Facility concerning applicable reporting requirements. Notwithstanding any other provision of this Agreement, Manager shall promptly provide County with a copy of any governmental inspection report, communication, or correspondence of any kind pertaining to the compliance of the Facility with applicable law, including, without limitation, inspection reports, statements of deficiency, plans of correction and related cover letters. Manager shall, at County's request and sole cost and expense, pursue appeals, requests for informal dispute resolution or other proceedings or discussions with government agencies, or compromise or settle such matters in the manner determined by County.

f. Cooperation on Termination. On the expiration or earlier termination of this Agreement, Manager and Manager Affiliates shall extend its reasonable cooperation to County in effecting an orderly transition to any new Manager of the Facility in order to avoid any interruption in the rendering of services to the residents of the Facility. In connection therewith, Manager shall surrender, without charge, to County, all property, equipment, and supplies owned by the County and all contracts, documents, books, records, forms and reports owned by the County and in the possession of Manager regarding the operation of the Facility since the Effective Date. Any property that is owned or leased by Manager, or is otherwise proprietary in nature to Manager no matter what form, and which is provided at the Facility by Manager to facilitate the terms of this Agreement, shall remain the exclusive property of Manager on termination of this Agreement. County may not use such property without obtaining prior written consent of Manager, which consent shall not be unreasonably withheld. As of the date of termination of this Agreement, the Manager or Manager Affiliates shall terminate the employment of all Facility Personnel, other than the Administrator and the Business Office Manager (who shall be relocated from the Facility by Manager to other duties) and the County's

subsequent manager (the "Subsequent Manager") shall extend offers of employment to the terminated employees (the "Transferred Employees"). County acknowledges that one purpose of this Section is to ensure that Manager and Manager Affiliates are not required to give notice to the Facility Personnel of the "closure" of the Facility under the Worker Adjustment and Retraining Notification Act of 1988, as amended (the "WARN Act") or under any comparable state law applicable to such employees. Accordingly, County shall indemnify, defend and hold harmless Manager and Manager Affiliates for, from and against any liability which Manager or Manager Affiliates may incur under the WARN Act or under any applicable comparable state law in the event of a violation by County of its obligations thereunder, including a violation that results from allegations that County constructively terminated Facility Personnel as a result of the terms and conditions of employment offered by Subsequent Manager. Further, County shall be solely liable for its own acts and omissions in connection with this transfer of operations and shall indemnify, defend and hold harmless, Manager and Manager Affiliates for, from and against any liability for such acts or omissions, including, but not limited to Subsequent Manager's failure to hire an employee or former employee as contemplated in this Agreement or termination of employment of any Facility Personnel.

g. Licenses and Permits. Manager shall apply for and obtain and maintain all licenses, certifications and permits required of Manager in connection with its management of the Facility, provided that the County is and shall be the holder of the Facility operating licenses and permits, including, without limitation, all certificates of need and "bed rights," and County shall be the "Provider" within the meaning of all agreements with third-party payors concerning reimbursement for nursing home care and related products and services and shall receive all reimbursement and other payments for patient care directly. Manager shall not be responsible for applying for or obtaining any licenses, certifications or permits required of County as Provider.

h. Laws. Manager shall comply with all laws, orders, rules, regulations or requirements of any federal state, county or municipal authority applicable to the performance of Manager's obligations under the terms of this Agreement. If Manager becomes aware of any violation of any law, order, rule regulation or requirement of any federal, state, county or municipal authority applicable to the Facility (collectively, the "Government Regulations"), then Manager shall immediately notify County and cause the violation to be remedied in a manner required by County; provided, however, compliance with all such Government Regulations shall be and remain at the cost and expense of County, and nothing herein contained shall impose on Manager any liability for the failure of the Facility to comply with any such Government Regulations unless the violation is caused by the gross negligence or willful misconduct of Manager, in which event Manager will be responsible for such costs and expenses caused by its gross negligence or willful misconduct. Manager shall not, without the prior written consent of County, make any alterations or repairs ordered or required by any such federal, state, county or municipal authority or under any such Government Regulations, but if any such alterations or repairs are not made due to the failure of County to promptly give its written consent after written request therefore delivered to County, then County shall hold Manager harmless from any liability that may arise by reason of the failure to make such alterations or repairs, and Manager shall have the right to terminate this Agreement, but only after giving the County written notice of the deficiency and a cure period of thirty (30) days to complete the required

alterations or repairs. Notwithstanding the foregoing, the County shall have the right to request a cure period in excess of thirty (30) days in the event that the required alterations or repairs cannot reasonably be completed within thirty (30) days and the County has taken the necessary steps to begin such alterations or repairs, which request shall not be unreasonably refused by Aurora. County shall have the right at County's expense to contest by proper legal proceedings the validity or application of any such Government Regulations.

i. Administrative Functions. All decisions regarding admissions to the Facility shall be made in the Manager's good faith discretion, consistent with applicable laws, rules and regulations, and Manager shall not be required to admit any proposed resident whom the Manager determines, in its sole discretion, are not medically appropriate for the Facility.

j. Accounts Payable. Manager shall promptly pay all invoices and statements for expenses incurred in the operation of the Facility using funds from the Working Capital Account (as that term is defined in Section 6(e) herein), and the County shall be responsible for the timely reimbursement of the Working Capital Account for such expense payments made from it. Five (5) days prior to the date payments are to be made, Manager will provide County with the details of the expense payments to be made via accounts payable checks, ACH or other payment form. County will wire funds in the amounts of the expense payments so made by Manager, no later than two (2) business days after the expense payment date, time being of the essence. To assure the availability of funds to meet payroll and accounts payable expenses, County will fund the Working Capital Account as described in Section 6(e).

k. Billing and Collection. Manager shall provide billing and collection services for those clinical and related services rendered by Manager and Facility Personnel to residents of the Facility. Manager shall use County's name and County's provider number(s) on all bills submitted to payors. Manager shall complete all records and forms for billing in a timely and accurate manner. Manager shall collect all payments attributable to services rendered to residents at the Facility by Manager and Facility Personnel on behalf of County, and arrange for the deposit of such payments to an account in County's name. Manager agrees that all fees, including capitated or other managed care payments, when accrued or paid, are the sole property of County and that Manager has no direct interest in any such fees.

l. Financial Statements to County. Manager shall render statements to County as follows:

i. On or before the twenty-eighth (28th) day of each calendar month, Manager shall provide a detailed profit and loss statement, balance sheet, and cash flow statement pertaining to the operations of the Facility for the preceding calendar month and for the portion of the operating year ended on the last day of such preceding calendar month (each a "Monthly Statement"). County shall cooperate in providing any required financial information required by Manager to provide such statements, which may include the amounts received by County from third party payors and otherwise from Facility operations.

ii. Manager shall render within ninety (90) days after the end of each fiscal year, a detailed profit and loss statement, balance sheet, and cash flow statement pertaining to

the operations of the Facility for such operating year and a detailed statement for such operating year of all capital expenditures made by Manager for the account of County.

m. Quality Assurance and Improvement. Manager shall develop and maintain quality assurance and improvement policies, procedures, and protocols for the provision of high-quality services to residents of the Facility.

n. Operating Budget.

i. At least thirty (30) days prior to the Effective Date, Manager shall prepare and deliver to the County for its approval a proposed operating budget for the balance of Fiscal Year ("FY") 2016, which will set forth in reasonable detail the cost of all goods, services, and capital items anticipated to be incurred in connection with the operation of the Facility and the Manager's provision of the services set forth herein ("Operating Budget"). The County shall review, incorporate any adjustments to the proposed Operating Budget that it deems appropriate in its sole discretion, and approve the Manager's initial proposed Operating Budget in accordance with its budget approval rules, regulations, and processes. The County shall deliver the final, approved Operating Budget on or before the Effective Date.

ii. On or before April 15, 2016, Manager shall prepare and deliver to the County for its approval a proposed Operating Budget for FY 2017. The County shall review, incorporate any adjustments to the proposed Operating Budget that it deems appropriate in its sole discretion, and approve the Manager's initial proposed Operating Budget in accordance with its budget approval rules, regulations, and processes. The County shall deliver the final, approved Operating Budget prior to the start of FY 2017.

iii. On or before February 1, 2017, Manager shall prepare and deliver to the County for its approval a proposed Operating Budget for FY 2018. The County shall review, incorporate any adjustments to the proposed Operating Budget that it deems appropriate in its sole discretion, and approve the Manager's second proposed Operating Budget in accordance with its budget approval rules, regulations, and processes. The County shall deliver the final, approved Operating Budget prior to the start of FY 2018.

iv. In the event that the Parties cannot agree on an Operating Budget in advance of the start of the Effective Date, the Operating Budget in effect prior to the commencement of this Agreement shall apply until a New Operating Budget is mutually agreed upon by the Parties. In the event that the Parties cannot agree on an Operating Budget in advance of the start of any Fiscal Year, the Operating Budget in effect for the prior Fiscal Year (adjusted for inflation or deflation, as determined by the applicable Consumer Price Index published by the Bureau of Labor Statistics of the U.S. Department of Labor) shall apply until a new Operating Budget is mutually agreed upon by the Parties.

v. Manager understands that the County's oversight of the operating expenses incurred during the Term of this Agreement shall be subject to the County's budget oversight rules, regulations and processes.

o. Other Duties. Manager shall perform such other management and/or administrative duties as may be reasonably requested from time to time by County on mutually acceptable terms.

4. Reformation of Agreement. Manager and County intend and in good faith believe that this Agreement complies with all applicable federal and state laws, regulations and proposed regulations governing third-party payors, including the Medicare and Medicaid programs, and the operation of the Facility. If any provision of this Agreement is contrary to any such laws or regulations, Manager and County will, in good faith, renegotiate such provision to their mutual satisfaction and all other provisions of this Agreement shall remain in full force and effect. If Manager and County are not able to mutually agree on a modification of the provision, then either party may terminate this Agreement on thirty (30) days' written notice to the other without penalty or other cause.

5. County's Duties.

a. Space. County shall arrange to provide to Manager such space suitable for use by Manager in the operation of the Facility.

b. Equipment and Supplies. County shall provide and maintain, in consultation with Manager, all equipment and supplies reasonably necessary to ensure the proper functioning of Manager to perform its duties under this Agreement. All such equipment and supplies shall remain the property of the County.

6. Manager's Compensation.

a. As compensation for the services to be rendered by Manager during the Term of this Agreement, the County will pay to Manager a monthly management fee (the "Manager's Fee"). The Manager's Fee shall be equal to four and one half percent (4.5%) of the Gross Revenue (as defined below) during the Initial Term and the First Renewal Term, and five percent (5%) of the Gross Revenue during the Second Renewal Term. The Manager's Fee shall be paid monthly on an estimated basis and shall be adjusted to comply with the foregoing formula on a year-to-date basis, as actual Gross Revenues are determined for prior periods. The parties shall calculate the estimated Manager's Fee based upon the average Gross Operating Revenues from the statements for the most recent three (3) months preceding the service month, (but not including the month immediately preceding the service month because that month's statement will not have been completed.) The estimated Manager's Fee will be paid by the first (1st) business day of the service month.

b. The parties shall calculate the Manager's Fee actually earned in a specific month within five (5) business days after receipt of the Monthly Statement for that month. The date for each Monthly Statement being the twenty-eighth (28th) day of the next calendar month as provided in Section 3(l)(i). The difference between the estimated fee paid to Manager and the actual fee due to Manager shall be promptly determined, and the corresponding adjustment made to the next estimated fee payment.

c. "Gross Revenue" means the revenue accrued from the operation of the Facility, from whatever source, including, without limitation, room and board, ancillary revenue and any other miscellaneous charges resulting from services rendered to residents of the Facility. Notwithstanding any other provision of this Agreement, Gross Revenue shall exclude (1) insurance proceeds (except for rent loss or business interruption proceeds), (2) condemnation awards, and (3) security deposits (unless forfeited).

d. All Facility Personnel will be employees of Manager's affiliates so long as this Agreement is in effect, and all costs for the salaries, benefits, and other expenses of such Facility Personnel ("Employee Expenses") shall be paid by the County, as provided in Section 3(c) above. Manager will provide the County with an estimate of each payroll ten (10) days prior to the end of each pay period, and will withdraw the actual payroll amount from the Working Capital Account (as that term is defined below). County will timely reimburse the Working Capital Account for those Employee Expenses by wire funds no later than two (2) business days after the payroll date, time being of the essence. Manager will provide County with, or make available for review, wage, benefit and earnings statements for verification of the Employee Expenses.

e. In addition, Manager shall be reimbursed for the expenses relating to any of Manager's employees who, with County's prior written consent, are filling any temporary Facility Personnel vacancies at the Facility as provided in Section 3(c) above, and for any consultants who are engaged by Manager to provide services solely to the Facility because of the requirements imposed on the Facility by applicable Government Regulations (such as dietary, pharmaceutical, social and other services) or by programmatic requirements established by County, provided that all such expenses are reasonably consistent with the Operating Budget and not attributable to any other facilities managed or owned by Manager or its affiliates. County shall be charged a rate for such services not to exceed Manager's actual cost for such temporary employees or consultants. Such reimbursements shall be processed pursuant to Section 3(j) above as accounts payable operating expenses of the Facility. On the Effective Date, the County will deposit the sum of $1,900,000.00 to be held as the Working Capital Account (the "Working Capital Account"), which shall be used by the Manager to meet Employee Expenses and accounts payable expenses, including but not limited to salaries, payroll taxes, and benefit expenses and for all other expenses incurred during the Term in the ordinary course of business for the operation of the Facility, provided that all such expenses are reasonably consistent with the Operating Budget. Following the withdrawal of funds from the Working Capital Account by the Manager, the Manager shall notify the County and the County shall replenish the Working Capital Account within two (2) business days. The availability of the Working Capital Account shall in no way relieve the County of its obligation to fund payroll expenses for which County is responsible in a timely manner as provided above.

7. Insurance.

a. Except as provided in Section 7(b) below, Manager and Manager Affiliates shall procure and maintain, at the County's cost and expense, and in a form and content satisfactory to County, during the entire Term of this Agreement including any extension thereof, the policies of insurance as set forth in Exhibit C, attached hereto and incorporated by reference. Such insurance policies shall cover Manager, Manager Affiliates and the Facility Personnel, as applicable, as it relates to the operations of the Facility and the services provided

hereunder. County shall only be responsible for the cost and expense of the insurance policies set forth in Exhibit C to the extent that such policies provide coverage for the Facility or the Facility Personnel, and shall not be responsible for any part of such policies that are attributable to other facilities or operations managed or owned by Manager or its affiliates or other personnel who provide services in support of such other facilities or operations. Manager shall have County added as an additional insured on the general/professional liability and automobile liability polocies listed in Exhibit C, and shall provide County with a Certificate of Insurance, endorsement or appropriate insurance binder evidencing such coverage. No work or services under this Agreement shall commence until Manager has provided the County with Certificates of Insurance, endorsements or appropriate insurance binders evidencing the insurance coverage required hereunder and said Certificates of Insurance, endorsements, or binders are approved by the County. In the event any of said policies of insurance are canceled, Manager shall, prior to the cancellation date, submit new evidence of insurance to County. Manager shall provide County with an itemized statement of the cost of the insurance policies required hereunder.

b. County shall procure and maintain, at its sole cost and expense, similar Auto and General Liability coverage for the premises, and shall provide a Certificate of Insurance evidencing such coverage to Manager. With respect to the General Liability coverage, County shall have Manager and Manager Affiliates added as an additional insured on the County's Facility policy, providing Manager with a Certificate of Insurance evidencing such coverage.

8. Indemnification.

a. If permitted by law, County shall indemnify, defend and hold Manager and each of Manager's agents, officers, employees, managers and members harmless from and against any and all claims, losses, costs, damages, liabilities, suits, actions, proceedings, judgments, fines, penalties, charges and expenses, including reasonable attorneys' fees (collectively, "Claims") arising out of the negligence or willful acts or omissions of County or its employees or agents whether before or after the date of this Agreement, except that County shall have no obligation to indemnify Manager to the extent such Claims arise solely out of Manager's negligence or willful acts or omissions. County shall have the right to defend, and shall defend, at its expense and by counsel of its own choosing (subject to the approval of such counsel by Manager or any person or entity to be defended hereunder, not to be unreasonably withheld), against any claim or liability to which the indemnity agreement set forth in this Section 8(a) should apply. Any settlement of any such claim or liability by County shall be subject to the reasonable approval of Manager or any persons or entities being defended hereunder. The right of Manager or any persons or entities being defended hereunder to defend or settle any such claim shall be limited to those cases where County has failed or refused to defend after written notice to County or to where Manager or any persons or entities to be defended hereunder reasonably determine that a conflict of interest exists. County or Manager, as applicable, shall regularly apprise the other of the status of all proceedings. This indemnification shall survive the termination or expiration of this Agreement for a period of two (2) years.

b. Manager shall indemnify, defend and hold County and each of County's partners, officers, directors, stockholders, agents and employees who is not affiliated with

Manager harmless from and against any and all Claims arising out of the negligence or willful acts or omissions of Manager or its agents, employees, managers and members on or after the date of this Agreement, except that Manager shall have no obligation to indemnify County to the extent such Claims arise solely out of County's negligence or willful acts or omissions. Manager shall have the right to defend, and shall defend, at its expense and by counsel of its own choosing (subject to the approval of such counsel by County or any person or entity to be defended hereunder, not to be unreasonably withheld), against any claim or liability to which the indemnity agreement set forth in this Section 8(b) should apply. Any settlement of any such claim or liability by Manager shall be subject to the reasonable approval of County or any persons or entities being defended hereunder. The right of County or any persons or entities being defended hereunder to defend or settle any such claim shall be limited to those cases where Manager has failed or refused to defend after written notice to Manager or to where County or any persons or entities to be defended hereunder reasonably determine that a conflict of interest exists. Manager or County, as applicable, shall regularly apprise the other of the status of all proceedings. This indemnification shall survive the termination or expiration of this Agreement for a period of two (2) years.

c. If any Claim arises under this Section 8, the party seeking indemnification (the "Indemnified Party") shall promptly notify, in writing (a "Notice"), the party from whom indemnification is sought (the "Indemnifying Party"), of any known facts supporting the Claim and the estimated amount arising from the Claim (the "Liability"). The Indemnified Party shall not settle or compromise any Claim without the prior written consent of the Indemnifying Party. In connection with any Claim, the Indemnifying Party may, at its sole cost, assume the defense of any such Claim in any litigation or related proceeding (a "Proceeding"). The Indemnified Party shall be entitled to participate in (but not control) the defense of any Claim or Proceeding related to a Claim, with its own counsel and at its sole cost. If the Indemnifying Party does not assume the defense of a Claim or Proceeding within twenty (20) days after receipt of a Notice: (i) the Indemnified Party may defend the Claim in such manner as it reasonably deems appropriate, including settling such Claim after giving advance written notice of such proposed settlement, and (ii) the Indemnifying Party shall thereafter be entitled to participate (but not control) in the defense of the Claim and any Proceeding, with its own counsel and at its sole expense.

d. Subject to the terms hereof, an Indemnifying Party shall pay to the Indemnified Party the full amount of any and all sums that such Indemnified Party is obligated to pay or assume hereunder, within twenty (20) days after notice thereof or, if such Claim is made the subject of judicial or administrative proceedings, the date such proceedings are terminated or a final judgment is rendered and all appeals are exhausted or applicable appeal periods are allowed to lapse.

9. Liens. County and Manager will use their commercially reasonable efforts to prevent any liens from being filed against the Facility that arise from any maintenance, repairs, alterations, improvements, renewals or replacements in or to the Facility, other than to secure the financing thereof.

10. Termination.

a. Termination by County. The County shall have the right to terminate immediately (or after such notice as the County may provide) this Agreement and the employment of Manager on the happening of any of the following events, and, except as otherwise provided in this Agreement or as to accrued liabilities, including, without limitation, accrued Manager's Fees and expenses entitled to reimbursement payable under Section 6, or claims which shall have accrued or arisen before the effective date of such termination, all obligations under this Agreement shall thereon cease:

i. If in any twelve (12) month rolling period beginning twelve (12) months after the Closing Date Citizen Care & Rehabilitation Center does not achieve a minimum EBITDAR of Two Million Five Hundred Thousand Dollars ($2,500,000) and the County has given ninety (90) days prior notice of its intention to terminate on this basis; for purposes of this Section 10, EBITDAR shall not include any expenses imposed by the County which are not consistent with the ordinary course of business for a nursing home; including, but not limited to, the expense of the County financial officer listed in Section 3(c) above, and any expenses associated with the Montevue Assisted Living Facility; or

ii. If a governmental agency determines that the Facility fails to be in substantial compliance with any license, permit, or certification relating to the manner in which the Facility is to be operated under state or federal law and regulations including, without limitation, laws and regulations pertaining to the Medicare or Medicaid programs, and the Facility's plan of correction is rejected by the applicable government agency; or

iii. If, at any time after the Effective Date, the Facility is cited for deficiencies at a scope and severity of "level G" (as governed by Part 488 of 42 C.F.R.) in areas representing federally defined substandard quality of care or higher in a survey issued by a governmental agency and Manager fails to correct or cause to be corrected such deficiency after a second revisit in the same one hundred eighty (180) day federal survey cycle; or

iv. If Manager (i) applies for or consents to the appointment of a receiver, trustee or liquidator of Manager or of all or a substantial part of Manager's assets; (ii) files a voluntary petition in bankruptcy or admits in writing its inability to pay its debts as they become due; (iii) makes a general assignment for the benefit of creditors; or (iv) files a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law; or

v. If an order, judgment or decree is entered by a court of competent jurisdiction, on the application of a creditor, adjudicating Manager as bankrupt or insolvent or approving a petition seeking Manager's reorganization or appointing a receiver, trustee or liquidator of it of all or a substantial part of its assets and is not withdrawn or dismissed within ninety (90) days; or

vi. If there occurs any act of fraud by Manager or any member of Manager, or Manager or any member of Manager is convicted of a crime; or

vii. On the closing date of any sale of the Facility by the County (including any sale of the Facility in connection with a foreclosure, power of sale or deed-in-lieu of foreclosure); or

viii. On the effective date of any taking of the entire or a substantial portion of the Facility or its services through law to condemnation proceedings by any governmental authority; or

ix. If County shall elect not to rebuild or repair the Facility after the occurrence of a casualty, and as a result thereof, County shall cease operating the Facility as a nursing home or assisted living facility; or

x. On the giving of written notice by County if Manager has been grossly or continually negligent in, or in material breach of, its performance of any of its obligations under this Agreement, provided that County shall have previously served written notice on Manager setting forth the details of such alleged breach, and Manager shall not, within thirty (30) days after the mailing of such notice, have cured such breach, or if such breach is of a nature that it cannot be cured within such thirty (30) day period have commenced and at all times thereafter have diligently proceeded with all acts required to cure such breach; or

xi. If Manager or any of its owners, members, or directors has been excluded or suspended from any federal health care program (as defined in Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b(h)) or state health care program (as defined in Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b(b)).

b. Termination for Cause by Manager. In addition to its termination right under Section 2 above, Manager shall have the right to terminate this Agreement and its appointment as Manager upon thirty (30) days' prior written notice (other than Section 10(b)(iii) below, which shall terminate upon three (3) days' written notice) on the happening of any of the following events, and, except as otherwise provided herein or as to accrued liabilities, including, without limitation, accrued Manager's Fees payable under Section 6, or claims which shall have accrued or arisen before such termination, all obligations hereunder shall thereon cease:

i. On the occurrence of a material breach by County of any of its obligations hereunder or pursuant to the terms of the Settlement Agreement, the PSA or the related Escrow Agreement, which is not cured within fifteen (15) days after written notice from Manager detailing such alleged breach; or

ii. Upon thirty (30) days' prior written notice if any portion of the escrowed Acquisition Price (as defined in the PSA) held under the Escrow Agreement is not timely released on the dates specified in the related Escrow Agreement; or

iii. Upon three (3) days' prior written notice if any portion of the Employee Expenses are not paid when due in accordance with this Agreement, or the Working Capital Account is not replenished in accordance with Section 6(e) hereof. The County hereby

acknowledges the failure to pay any portion of the Employee Expenses shall cause irreparable harm to Manager, and shall jeopardize the health and welfare of the residents of the Facility; or

iv. If County elects not to rebuild or repair the Facility after the occurrence of a casualty, and as a result thereof, County has ceased operating the Facility as a comprehensive care facility or assisted living facility.

(c) Termination Without Cause. During the First Renewal Term and Second Renewal Term, the County shall have the right to terminate this Agreement for any reason or no reason upon giving one hundred twenty (120) days prior written notice to Manager.

11. Assignment. Neither party hereto shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party.

12. Notices. Any notice, communication or demand required or permitted to be given under this Agreement shall be in writing (including facsimile communications) and shall be sent by first-class mail, return receipt requested, or by nationally recognized overnight courier, or by facsimile transmission or by personal delivery. All notices shall be sent to the applicable party at the following address:

To County, by addressing the same to:

Frederick County, Maryland
Winchester Hall
12 E. Church Street
Frederick, Maryland 21702
Attention: Office of the County Executive

With a copy to:

County Attorney
Winchester Hall
12 E. Church Street
Frederick, Maryland 21702

To Manager or Manager Affiliates, by addressing the same to:

Aurora Health Management, LLC
8227 Cloverleaf Drive, Suite 309
Millersville, Maryland 21108
Attention: Stanley H. Snow

with a copy to:

Gallagher Evelius & Jones, LLP
218 North Charles Street, Suite 400
Baltimore, Maryland 21201
Fax No.: (410) 468-2786
Attention: Thomas C. Dame, Esquire

Any such properly given notice shall be effective on the earliest to occur of receipt, telephone confirmation of receipt of facsimile communication, one (1) business day after delivery to a nationally recognized overnight courier or five (5) business days after deposit in the mail, return receipt requested.

13. Access to Records. If required by Section 1861(v)(1)(1) of the Social Security Act, 42 U.S.C. § 1395x(v)(1):

a. For such period as may be required under state and federal law, Manager shall make available, on written request, to the Secretary of Health and Human Services, the United States Comptroller General or any of their duly authorized representatives, a copy of this Agreement, and any books, documents and records of Manager that are necessary to certify the nature and extent of costs incurred by County under this Agreement. This provision shall survive expiration or termination of this Agreement.

b. If Manager carries out any of the duties of this Agreement through a subcontract, such subcontract must be approved in advance by County and must contain a clause to the effect that until the expiration of four (4) years after the furnishing of services under such subcontract, the subcontractor shall make available, on written request, to the Secretary of Health and Human Services, the United States Comptroller General, or any of their duly authorized representatives, a copy of the subcontract and all books, documents and records of the related organization that are necessary to verify the nature and extent of costs incurred by Manager and County under the subcontract.

c. If any party is requested to disclose books, documents or records pursuant to this Agreement for purposes of an audit which may include costs of services provided under this Agreement, it shall notify the other party of the nature and scope of such request. The requirements of this Section 13 are effective as of the Effective Date and pertain to all records which have or should have been maintained with respect to the Facility and/or this Agreement on or after that date.

14. Representations. Each party represents and warrants to the other that (i) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms subject to bankruptcy, insolvency, reorganization, fraudulent transfer and similar laws affecting creditors' rights generally; (ii) it has all, if any, requisite licenses, certifications, accreditations and permits to enter into this Agreement and to perform its obligations hereunder; (iii) neither it nor any individual with a direct or indirect ownership interest of five percent (5%) or more in such party nor any of its officers, directors, employees or agents who will be

providing services hereunder nor any of their immediate family or household members is now or has been debarred, excluded or suspended from any Federal health care program (as defined in Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b(f)) or state health care program (as defined in Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b(h))); and (iv) it will not make any payment hereunder to any such person who has been so debarred, excluded or suspended. Each person signing this Agreement on behalf of a party represents and warrants that he has authority to execute this Agreement on behalf of that party.

15. Miscellaneous.

a. Relationship of the Parties. County and Manager shall be independent contractors with respect to one another under the terms of this Agreement. Nothing set forth in this Agreement shall constitute or be construed to be or create a partnership or joint venture between County, its successors or assignees, on the one part, and Manager, its successors or assignees, on the other part.

b. Modification and Changes. The parties may amend this Agreement only by an amendment in writing signed by all parties hereto.

c. Entire Agreement. This Agreement, together with any exhibits or addenda hereto, constitute all of the understandings and agreements of whatsoever nature or kind existing between the parties with respect to Manager's management of the Facility.

d. Headings. Section headings contained in this Agreement are for convenience of reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

e. Approval or Consent. Whenever under any provision of this Agreement the approval or consent of either party is required, such approval and consent shall be timely given or denied and shall not be unreasonably withheld.

f. Governing Law. This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Maryland, exclusive of the conflict of laws provisions of such State.

g. Partial Invalidity. The provisions of this Agreement are severable, such that if any provisions of this Agreement or the application of any provision to any person or circumstance is held invalid or unenforceable, the remainder hereof shall be construed so as to give effect to the intent of the parties, and the application of such provision to other persons or circumstances shall remain valid and enforceable.

h. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties and their respective personal representatives, successors and permitted assigns.

i. Waiver of Provisions. The failure of either party to insist on a strict performance of any of the terms or provisions of this Agreement or to exercise any option, right, or remedy set forth in this Agreement, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

j. Third Parties. Except as expressly stated herein none of the obligations of either party shall run to, or be enforceable by, any party other than the other party to this Agreement.

k. Estoppel Certificates. At the request of either party, the parties will execute an appropriate estoppel certificate confirming that this Agreement is in full force and effect, specifying any items in default and providing such other terms or information as reasonably requested by such party.

l. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.

m. Further Instruments. The parties shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding, and enforceable, as between the parties, and as against third parties.

n. Survival. The provisions of Sections 3(f), 6, 8, 13 and 15(p), and Exhibit B of this Agreement shall survive the termination or expiration of this Agreement for any reason.

o. Dispute Resolution. In the event that any dispute arises relating to this Agreement, such dispute will be handled in accordance with the process set forth in Section 7.3 of the PSA.

p. Appropriation of Funds. If necessary to implement and maintain this Agreement, the County Executive of the County agrees, to the extent permitted by applicable law, to do all things lawfully within her powers to annually request the appropriation of funds by the Frederick County Council to pay all amounts properly due and payable under this Agreement. This obligation includes (without limitation) requesting adequate funds be included in the budget submitted to the Frederick County Council to meet the County's obligations hereunder in full in each of its fiscal year budgets. Nothing in this Agreement shall obligate the Frederick County Council to make any appropriation.

[Signatures Appear on the Following Page]

{Signature Page to Management Agreement}

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on this 12th day of May, 2016.

**COUNTY:**

**FREDERICK COUNTY, MARYLAND**

By: _____
Jan H. Gardner, County Executive

**MANAGER:**

**AURORA HEALTH MANAGEMENT, LLC**

By: _____
Stanley H. Snow
President

**MANAGER AFFILIATES:**

**CITIZENS CARE AND REHABILITATION CENTER OF FREDERICK, LLC**

By: _____
Stanley H. Snow
President

**ODYSSEY ASSISTED LIVING AT MONTEVUE, LLC**

By: _____
Stanley H. Snow
President

## EXHIBIT A

## SCOPE OF SERVICES

Manager shall assume operational management and full administrative responsibility of the Facility. It is understood that the following responsibilities shall apply, in addition to those specified in Section 3 of the Agreement:

1. Manager shall assign and manage Facility Personnel to maintain 24 hours per day, 7 days per week, and 365 days per year operations.
2. Manager shall provide a qualified full time on-site Facility Administrator, and Business Office Manager, each of whom shall be Manager's employees.
3. Manager shall provide corporate and regional support for Facility Personnel.
4. Manager shall meet with the County or its designee when and as needed, upon reasonable advance notice.
5. Manager will manage the Facility operations, in keeping with contracts currently in place, and those which become effective during the Term hereof.
6. Manager shall follow all applicable Government Regulations in reporting all reportable resident incidents to the appropriate governmental authorities. The Manager shall also inform County or its designee of all such incidents.
7. Manager will maintain a set of books and records showing all revenue collected and all expenditures made in connection with the operation of the Facility along with such supporting data and documents as necessary. Said books and records shall be kept in such a manner as to make them easily reconcilable with the reports and forms to be submitted to the County by Manager. The County and its authorized representative(s) shall have the right at any time to examine the records, books, data and documents kept by the Manager regarding the operation and maintenance of the facility. A copy of said books and records shall become the permanent property of the County and be retained by the County.
8. Manager shall submit all required reports, forms and documents to the County within established time frames; Manager shall promptly investigate any complaint received by the County concerning the operation of the Facility or the conduct, demeanor or appearance of any employee, invitee or sub-Manager of Manager. Manager shall respond in writing to any such complaint within five (5) business days.
9. Manager shall submit monthly financial summaries detailing the prior month's actual revenues and expenses and such other financial documents set forth in Section 3 of this Agreement. The Manager shall meet with the County or designee to review each report. The Manager shall have regular meetings with the Finance Division and/or Accounting Department to discuss financial issues, performance, and revenue and expense trends. These meeting shall be held at a frequency determined at the sole discretion of the County, but no more than once per month. Such meetings shall take place at the Facility.
10. Manager shall hire Schiavi Wallace or another qualified independent contractor acceptable to County to prepare the annual CMS Medicaid and Medicare Cost Reports, within the required CMS time frames. County shall pay for the cost of hiring this contractor. The County reserves the right to view the reports at any time during the contract term or any renewals thereof.

11. Manager shall allow inspections of the Facility to be periodically conducted by the State, County, its designees, and/or consultants hired by the County. Manager shall not be responsible for the costs of any such inspection. A copy of any recommendations resulting from an inspection shall be provided to the Manager. Manager shall consult with County regarding any recommendations set forth in each inspection report.

12. Manager shall be responsible for developing regular communications with residents through Resident Council Meetings and with family members through scheduled family meetings, newsletters etc. The County reserves the right to attend meetings and/or review the newsletters at any time throughout the contract term or any renewals thereof.

13. Manager shall observe and comply with any and all requirements of all applicable federal, state or local statutes, ordinances, regulations and standard rules.

14. Manager shall acquire and keep current all licenses required for the conduct of its business (other than the Facility operating licenses, which are the responsibility of the County to obtain and maintain). Copies shall be provided to the County, and all updates shall be provided immediately.

15. County reserves the right to request that residents complete satisfaction surveys.

The County shall maintain operational oversight as follows:

1. County shall be responsible for capital projects. Capital projects are defined as repairs, replacements or upgrades which maintain or increase the value of the facilities and which meet or exceed a dollar limit of $1,000. The County shall have sole authority to determine what repairs, replacements or upgrades are capital projects.

2. Authorized officers, employees, agents, managers, sub-managers and other representatives of the County shall have the right (at such times as may be reasonable under the circumstances and with as little interruption of Manager's operations as is reasonably practical) to access to the Facility for the purposes of inspection, maintenance or repair.

Management of Employees:

1. Manager shall be responsible for hiring, employment and management of all current and future Facility Personnel at the Facility, during the Term.

2. Manager shall be responsible for evaluations of employees and disciplinary action.

3. In order to meet the ever changing demands on the Facility from both internal and external forces, the Manager may assign staff duties and responsibilities as necessary in accordance with the Manager's expert assessment of the requirements of the Facility.

## EXHIBIT B

## BUSINESS ASSOCIATE ADDENDUM

A. County desires to commence a business relationship with Manager and Manager Affiliates (Manager and Manager Affiliates are collectively "Manager" herein) that shall be memorialized in the preceding agreement (the "Underlying Agreement") pursuant to which Manager may be considered a "Business Associate" of County as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including all pertinent regulations (45 CFR Parts 160 and 164) issued by the U.S. Department of Health and Human Services as either having been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5).

B. The nature of the prospective contractual relationship between County and Manager may involve Manager's creation or receipt of Protected Health Information ("PHI"), as that term is defined below, from or on behalf of County.

C. For good and lawful consideration as set forth in the Underlying Agreement, County and Manager enter into this Business Associate Addendum (this "Addendum") for the purpose of ensuring compliance with the requirements of HIPAA, its implementing regulations, the HITECH Act and the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General Art., Section 4-301 et seq.) ("MCMRA").

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the parties, intending to be legally bound, hereby agree as follows:

### DEFINITIONS

A. "Individual" shall have the same meaning as the term "individual" in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

B. "Breach" shall have the same meaning as the term "breach" in §13400 of the HITECH Act and shall include the unauthorized acquisition, access, use or disclosure of PHI that compromises the security or privacy of such information.

C. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR §164.501

D. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, as amended by the HITECH Act and as may otherwise be amended from time to time.

E. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created or received by Manager from or on behalf of County.

F. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR §164.103.

G. "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or his designee.

H. "Unsecured Protected Health Information" or "Unsecured PHI" shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in the §13402(h) of the HITECH Act.

USE OR DISCLOSURE OF PHI BY MANAGER

A. Except as otherwise limited in this Addendum, Manager may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

B. Manager shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e).

C. Manager shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as County.

DUTIES OF MANAGER RELATIVE TO PHI

A. Manager shall not use or disclose PHI other than as permitted or required by this Addendum or as Required By Law.

B. Manager shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of County.

C. Manager shall immediately notify County of any use or disclosure of PHI in violation of this Addendum or of any Security Incident (as such term is defined in 45 C.F.R. § 164.304).

D. Manager shall promptly notify County of a Breach of Unsecured PHI following the first day on which Manager (or Manager's employee, officer or agent) knows of such Breach or after the first day on which Manager (or Manager's employee, officer or agent) should have known of such Breach. Manager's notification to County hereunder shall:

1. Be made to County no later than five (5) calendar days after discovery of the Breach, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security;

2. Include the individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach; and

3. Be in substantially the same form as Schedule A hereto.

E. In the event of an unauthorized use or disclosure of PHI, a Security Incident or a Breach of Unsecured PHI, Manager shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.

F. Manager agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Manager on behalf of County, agrees in writing to the same restrictions and conditions that apply through this Addendum to Manager with respect to such information.

G. To the extent applicable, Manager shall provide access to Protected Health Information in a Designated Record Set at reasonable times, at the request of County or, as directed by County, to an Individual in order to meet the requirements under 45 CFR §164.524. Notwithstanding the foregoing, Manager shall provide an Individual with access to his/her PHI in a time and manner that meets the requirements of applicable federal and state laws pertaining to nursing home or assisting living facility residents' access to medical records.

H. To the extent applicable, Manager shall make any amendment(s) to Protected Health Information in a Designated Record Set that County directs or agrees to pursuant to 45 CFR §164.526 at the request of County or an Individual.

I. Manager shall, on request with reasonable notice, provide County access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

J. Manager agrees to document such disclosures of PHI and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an Individual make a request to County for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. §164.528, Manager agrees to promptly provide County with information in a format and manner sufficient to respond to the Individual's request.

K. Manager shall, on request with reasonable notice, provide County with an accounting of uses and disclosures of PHI provided to it by County.

L. Manager shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from or created or received by Manager on behalf of, County available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be

made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Addendum, Manager shall comply and cooperate with any request for documents or other information from the Secretary directed to County that seeks documents or other information held by Manager.

M. Manager may use Protected Health Information to report violations of law to appropriate federal and state authorities, consistent with 42 C.F.R. §164.502(j)(1).

N. Except as otherwise limited in this Addendum, Manager may disclose PHI for the proper management and administration of Manager, provided that disclosures are Required By Law, or Manager obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Manager of any instances of which it is aware in which the confidentiality of the information has been breached.

TERM AND TERMINATION

A. Term. The Term of this Addendum shall be effective as of the date the Underlying Agreement is effective, and shall terminate when all of the Protected Health Information provided by County to Manager, or created or received by Manager on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this section.

B. Termination for Cause. On County's knowledge of a material breach by Manager, County shall:

1. Provide an opportunity for Manager to cure the breach or end the violation and, if Manager does not cure the breach or end the violation within the time specified by County, terminate this Addendum; or

2. Immediately terminate this Addendum if Manager has breached a material term of this Addendum and cure is not possible.

C. Effect of Termination.

1. Except as provided in paragraph (C)(2) below, on termination of this Addendum, for any reason, Manager shall return or destroy all Protected Health Information received from County, or created or received by Manager on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Manager. Manager shall not retain any copies of the Protected Health Information.

2. If Manager determines that returning or destroying the Protected Health Information is infeasible, Manager shall provide to County written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of

Protected Health Information is infeasible, Manager shall extend the protections of this Addendum to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Manager maintains such Protected Health Information.

3. Should Manager make a disclosure of PHI in violation of this Addendum, County shall have the right to immediately terminate any contract, other than this Addendum, then in force between the parties, including the Underlying Agreement.

4. The respective rights and obligations of County and Manager under this paragraph (C) shall survive the termination of this Addendum.

## CONSIDERATION

Manager recognizes that the promises it has made in this Addendum shall, henceforth, be detrimentally relied on by County in choosing to continue or commence a business relationship with Manager.

## REMEDIES IN EVENT OF BREACH

Manager hereby recognizes that irreparable harm will result to County, and to the business of County, in the event of breach by Manager of any of the covenants and assurances contained in this Addendum. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, County shall be entitled to enjoin and restrain Manager from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Manager, County is entitled to reimbursement and indemnification from Manager for County's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Manager's breach. The remedies contained in this Section VI shall be in addition to (and not supersede) any action for damages and/or any other remedy County may have for breach of any part of this Addendum.

## MODIFICATION

This Addendum may <u>only</u> be modified through a writing signed by the parties to this Addendum and, thus, no oral modification hereof shall be permitted. The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with the requirements of the Privacy Rule and HIPAA.

## INTERPRETATION OF THIS ADDENDUM IN RELATION TO OTHER CONTRACTS BETWEEN THE PARTIES

Subject to Section 15(o) of the Underlying Agreement, should there be any conflict between the language of this Addendum and any other contract entered into between the parties (either previous or subsequent to the date of this Addendum), the language and provisions of this Addendum shall control and prevail unless the parties specifically refer in a subsequent written agreement to this Addendum by its title and date and specifically state that the provisions of the later written agreement shall control over this Addendum.

COMPLIANCE WITH STATE LAW

Manager acknowledges that by accepting the PHI from County, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy Rule and the MCMRA conflict regarding the degree of protection provided for Protected Health Information, Manager shall comply with the more restrictive protection requirement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Addendum to be executed as of the date specified above.

**COUNTY:**
**FREDERICK COUNTY, MARYLAND**

By: _____
Jan H. Gardner, County Executive

**MANAGER:**

**AURORA HEALTH MANAGEMENT, LLC**

By: _____
Stanley H. Snow
President

**MANAGER AFFILIATES:**

**CITIZENS CARE AND REHABILITATION CENTER OF FREDERICK, LLC**

By: _____
Stanley H. Snow
President

**ODYSSEY ASSISTED LIVING AT MONTEVUE, LLC**

By: _____
Stanley H. Snow
President

## SCHEDULE A TO BUSINESS ASSOCIATE ADDENDUM

## FORM OF NOTIFICATION TO COUNTY OF BREACH OF UNSECURED PHI

Manager hereby notifies County that there has been a Breach of Unsecured (unencrypted) Protected Health Information (PHI) that Manager has used or has had access to under the terms of the Underlying Agreement.

Description of the breach: _____

_____

Date of the breach: _____

Date of the discovery of the breach: _____

Number of Individuals affected by the breach: _____

The types of Unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

_____

_____

Description of what Manager is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

_____

_____

_____

Contact information to ask questions or learn additional information:

Name: _____
Title: _____
Address: _____

_____

Email Address: _____
Phone Number: _____

## EXHIBIT C

## INSURANCE

1. **General Liability** coverage with minimum limits of:
   $1,000,000 per Occurrence; $3,000,000 General Aggregate
   $3,000,000 Products/Completed Operations Aggregate

   Policy must include FREDERICK COUNTY, MARYLAND as an Additional Insured.

2. **Auto Liability** coverage provided by the County's policy for County owned vehicles.

3. **Workers' Compensation** coverage with minimum statutory limits

   Employers Liability coverage with minimum limits of $100,000 per Accident, $100,000 per Employee; and $500,000 per Policy

   ***NOTE:*** *Out of State employers must show evidence of coverage in Maryland by listing Maryland as a covered State. A copy of the Declarations Page showing evidence of coverage in Maryland must be provided.*

4. **Professional Liability** coverage with minimum limits of: $1,000,000 per Occurrence and $3,000,000 Aggregate

   Professional Liability coverage must indicate if it provides Occurrence or Claims Made coverage. Coverage written on a Claims Made form must indicate retroactive date.

   Professional Liability policy must include FREDERICK COUNTY, MARYLAND as an Additional Insured.

   Professional Liability policy must have no sexual molestation exclusion.

5. **Crime/Bond** coverage with minimum limits of:
   $250,000 Employee Theft; $125,000 Inside Premises; $1,000,000 Outside Premises.

   Must include a statement that provides Third Party coverage without a conviction clause on behalf of FREDERICK COUNTY, MARYLAND.

6. **Employment Practices Liability (EPL)** coverage with minimum limits of:
   $1,000,000 per Occurrence and $2,000,000 Aggregate

   Policy must include FREDERICK COUNTY, MARYLAND as an Additional Insured.
   EPL coverage must indicate if it provides Occurrence or Claims Made coverage.

   Coverage written on a Claims Made form must indicate retroactive date.

**PLEASE NOTE THE FOLLOWING:**

1. The Certificate Holder must be:

   Frederick County, Maryland
   c/o Risk Management
   12 East Church Street
   Frederick, MD 21701

2. Endorsements for policies requiring Additional Insured status must be provided upon request at the discretion of the Risk Management Department. Blanket endorsements are acceptable.

3. If any primary policy's limits fall short of the stated requirements, a certificate shall be provided for all any excess policies that supplement or extend these limits.

4. Any insurance written on a Claims Made form must be identified as such and indicate a retroactive or knowledge date.

5. These coverages must be maintained for the duration of the contract or business relationship.

6. The Manager shall not commence work for Frederick County, Maryland until evidence of all required coverage is approved by the Risk Director.

7. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

8. The providing of any insurance required herein does not relieve the Manager of any of the responsibilities or obligations assumed by the Manager in the contract awarded or for which the Manager may be liable by law or otherwise.

9. All of the above coverages must be written by a carrier with a minimum A.M. Best rating of A- or better AND a financial size classification of VI or higher. All insurance policies must also be underwritten by companies licensed to do business in the State of Maryland and all certificates must include an authorized signature.